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12 Attorneys for Defendants
Global Machinery Company,
13 GMCA Pty. Ltd., and Trapone Corporation Pty. Ltd.

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15 **UNITED STATES DISTRICT COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 JENS ERIK SORENSEN, as Trustee of
SORENSEN RESEARCH AND
DEVELOPMENT TRUST,

18 Plaintiff,

19 v.

20 GLOBAL MACHINERY COMPANY, an
Australian company; GMCA PTY. LTD., an
21 Australian company; TRAPONE
CORPORATION PTY. LTD., an Australian
22 company; and DOES 1-100,

23 Defendants.
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CASE NO. 08 CV 0233

**NOTICE OF MOTION AND MOTION
FOR STAY PENDING PATENT
REEXAMINATION**

DATE: April 25, 2008
TIME: 11:00 a.m.
Courtroom 15, 5th Floor
Hon. Barry Ted Moskowitz

No Oral Argument Unless
Requested by the Court

Memorandum of Points and
Authorities in Support of Motion for
Stay Pending Patent Reexamination
filed concurrently herewith

26 Defendants Global Machinery Company, GMCA Pty. Ltd., and Trapone Corporation Pty.
27 Ltd. ("Defendants") hereby move the Court to stay all proceedings in the present action pending
28 the reexamination of U.S. Patent Number 4,935,184 (the "184 patent") by the United States

1 Patent and Trademark Office (“USPTO”). In support of their Motion, Defendants state as
2 follows:

3 1. Plaintiff Jens Erik Sorensen, as Trustee of Sorensen Research and Development Trust
4 (“Plaintiff”) filed the present action against Defendants on February 5, 2008, alleging
5 infringement of the ‘184 patent.

6 2. The ‘184 patent is currently the subject of two reexamination proceedings before the
7 USPTO: reexamination application number 90/008,976 and reexamination application number
8 90/008,775.

9 3. Many issues in this case may be clarified, simplified, and determined by the pending
10 reexamination proceedings. A reexamination proceeding is an administrative proceeding of the
11 USPTO. As such, the pending reexamination proceedings allow the USPTO the opportunity to
12 resolve validity issues concerning the ‘184 patent through established administrative procedures,
13 thus sparing this Court the burden of determining difficult patent issues. The outcome of the
14 reexamination proceedings bears directly on the validity, enforceability, and scope of the ‘184
15 patent, which is the subject of the present action.

16 4. The present action is currently in a very early stage. The only pending deadline in the
17 action is the answer date, and no discovery requests have yet been issued.

18 5. The ‘184 patent has expired. Therefore, injunctive relief is not available.

19 6. A stay of the present action pending resolution of the pending reexamination applications
20 by the USPTO is appropriate because the reexamination prosecution will likely result in a
21 simplification of the issues to be considered by this Court. Thus, the interests of judicial
22 economy weigh in favor of granting a stay.

23 7. Good cause exists for granting this Motion and a stay of this action will unduly prejudice
24 no party.

25 Further background, arguments, and authorities in support of this Motion may be found in
26 the Memorandum of Points and Authorities in Support of Motion for Stay Pending Patent
27 Reexamination, filed contemporaneously herewith. For the reasons explained above and therein,
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1 Defendants respectfully request that the Court stay Case No. 08 CV 233 until the United States
2 Patent and Trademark Office completes its reexaminations of the '516 patent.

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4 DATED: March 18, 2008

HIGGS, FLETCHER & MACK LLP

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6 By: /s/ Thomas W. Ferrell

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Attorneys for Defendants
Global Machinery Company,
GMCA Pty. Ltd., and Trapone Corporation
Pty. Ltd.

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10 DATED: March _____, 2008

HEAD, JOHNSON & KACHIGIAN, P.C.

11
12 By: _____

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